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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,172	04/21/2004	Ralf Schlicphacke	101769-254 (tcsa AG 1635)	8156
27384 7590 09/06/2007 NORRIS, MCLAUGHLIN & MARCUS, PA 875 THIRD AVENUE 18TH FLOOR NEW YORK, NY 10022			EXAMINER SELLS, JAMES D	
			ART UNIT 1734	PAPER NUMBER
			MAIL DATE 09/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/830,172

Applicant(s)

SCHLIEPHACKE ET AL.

Examiner

James Sells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann (US Patent 5,562,789) in view of Treleaven (US Patent 6,413,345).

Hoffmann discloses a method of making a label. As shown in Figs. 7-11, the method provides web 111 with release liner ply 116, silicone coating 118, pressure sensitive adhesive 120 and a plurality of labels 122 surrounded by die cuts 123 in the manner claimed by the applicant.

However, Hoffmann does not disclose the die cut line configuration as claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Treleaven.

Treleaven discloses a method for making labels. This method employs die cut station 30 to form tear lines 135A, 135B, 155A, 155B and 158 in the labels. In particular, Figs. 2 shows the tear lines with a saw-toothed configuration.

It would have been obvious to one having ordinary skill in the art to employ a saw-toothed tear line, as taught by Treleaven, in the method of Hoffmann as a matter of design choice based on desired physical properties and appearance of the labels being produced. Further, since both Hoffmann and Treleaven teach tear lines, it would have

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been obvious to one having ordinary skill in the art to substitute one type of tear line for another in order to achieve predictable results. In addition, it is the examiner's position that employing an anti-adhesive coating on both sides of a backing material is well known and conventional in the art in order stack the materials without damaging them. For this reason, it would have been obvious to one having ordinary skill in the art to employ an anti-adhesive coating on both sides of a backing material in the method of Hoffmann in view of Treleaven as described above.

Response to Arguments

3. Applicant's arguments filed December 21, 2006 have been fully considered but they are not persuasive.

Applicant argues the examiner did not identify and practical expected advantages of making the substitution of a saw-toothed tear line for a straight line. The examiner does not agree. As stated above, it would have been obvious to one having ordinary skill in the art to employ a saw-toothed tear line, as taught by Treleaven, in the method of Hoffmann as a matter of design choice based on desired physical properties and appearance of the labels being produced. Such desired physical properties may include esthetic, functional and/or decorative properties of a saw-toothed tear line. In addition, since both Hoffmann and Treleaven teach tear lines, it would have been obvious to one having ordinary skill in the art to substitute one type of tear line for another in order to achieve predictable results.

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In response to applicant's argument that there is nothing in Hoffmann and Treleven that teaches or suggests that use of an undular diecut form as opposed to a straight-line diecut form should increase the speed of application of the diecuts, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant argues that employing a non-branching line having a form other than that of a straight line provides unexpected results. However, applicant's non-branching tear line having a form other than that of a straight line is known in the prior art (see Treleven). Therefore, it is the examiner's position that the mere substitution of one type of known tear line for another type of known tear line yields predictable results. See *KSR International Co. v. Teleflex, Inc.*, 82 USPQ2d 1385 (2007). Thus, applicant's argument is not persuasive.

Telephone/Fax

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is 571-272-1237. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


JAMES SELLS
PRIMARY EXAMINER
TECH. CENTER 1700